

## **DETAILED ACTION**

### ***Priority***

Acknowledgment is made of applicant's claim for priority under 35 U.S.C. 119(a)-(d) based upon an application filed in South Africa on 5/6/04 and 12/12/03. A claim for priority under 35 U.S.C. 119(a)-(d) cannot be based on said application, since the United States application was filed more than twelve months thereafter.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizuno (EP 1329168). Mizuno teaches an air deflection device for attachment to a helmet with a deflector portion generally in the shape of an aerofoil having an inner face and an outer face the inner and outer face meeting at a leading edge and a trailing edge with the inner face having an inner edge spaced laterally inward from the trailing edge with the inner edge having a ridge 8 extending longitudinally on the inner face. The device further has an attachment portion 2. Mizuno does not teach the device being made of foam plastic however it would have been obvious to one of ordinary skill in the art to use such material as it is commonly used in the art.

As to claim 2, the ridge 8 provides the inner edge of the deflector being spaced from the trailing edge of the deflector and the attachment portion 2 is attached to the extension of the deflector.

As to claim 3, the device is shown having a unitary construction and is capable of being releasable attached.

Claims 7, 13, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizuno (EP 1329168) in view of Whitaker (US 6,286,149). Mizuno teaches the device substantially above. Mizuno does not teach the device being attached to glasses. Whitaker teaches a wind damping device for attachment to glasses 76. It would have been obvious to one of ordinary skill in the art to modify the device of Mizuno with that of Whitaker to provide wind damping to a set of glasses.

Claims 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mizuno (EP 1329168) in view of Buschman (US 6,029,282). Mizuno teaches the device substantially above. Mizuno does not teach the device being attached to helmet straps. Buschman teaches an air deflector attached to a helmet strap 12. It would have been obvious to one of ordinary skill in the art to provide the deflectors of Mizuno on the straps of Buschman to provide wind deflection to the helmet.

#### ***Allowable Subject Matter***

Claims 4-5, 8-12, and 17-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See form PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW SUTTON whose telephone number is (571)272-6093. The examiner can normally be reached on M-Th 6:45-5:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-527-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/582,566

Page 5

Art Unit: 3765

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Supervisory Patent Examiner, Art Unit 3765